

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 11120 of 2011

DATE OF DECISION :- September 14, 2015

Gurcharan Singh

...Petitioner

Versus

Central Administrative Tribunal, Chandigarh Bench and others.

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE DARSHAN SINGH

Present:- Mr. P.M. Kansal, Advocate for the petitioner.

Mr. D.R. Sharma, Advocate for respondents 3 and 4.

M.JEYAPPAUL, J.

1. The petitioner Gurcharan Singh joined in the erstwhile respondent Department of Telecommunication as an Office Assistant w.e.f. 13.9.1989. He appeared for the examination conducted for the post of Junior Accounts Officer. He was declared as failed in the above examination. He approached the Central Administrative Tribunal by filing OA No. 1101/PB/2001 seeking a direction to the department to extend the relaxation for Schedule Caste and Schedule Tribe given under office memorandum dated 31.1.1995.

The Tribunal dismissed the plea of the petitioner. But in the Writ Petition filed by the petitioner as against the above order, this Court directed the official respondent to extend the benefit under office memorandum issued by Union of India on 31.1.1995 to the petitioner. Thereafter, the petitioner was selected and appointed as Junior Accounts Officer.

2. Union of India issued office memorandum dated 22.7.1997 withdrawing the benefit of relaxation granted to the Schedule Caste and Schedule Tribe employees under office memorandum dated 31.1.1995. Applying the above office memorandum dated 22.7.1997, the impugned orders were issued by the department. Thereafter, the result of the petitioner was reviewed vide order passed under Annexure A1 dated 5.1.2009 by the respondent department and as a result of which, the petitioner was declared again as failed for the post of Junior Accounts Officer.

3. Learned counsel appearing for the petitioner produced a copy of the judgment passed by the Hon'ble Supreme Court in ***Civil Appeal No. 6046-6047 of 2004 Rohtas Bhankhar and others versus Union of India and another*** dated 15.7.2014 and submitted that the very same office memorandum No. 36012/23/96 Estt. (Res) dated 22.7.1997 was declared as illegal.

4. Inasmuch as the above office memorandum dated 22.7.1997 issued by Union of India withdrawing the relaxation given to the employees belonging to Schedule Caste and Schedule Tribe

under office memorandum issued earlier by Union of India on 31.1.1995 was declared as illegal, the impugned orders passed by the respondent department against the petitioner will have to be quashed.

5. Resultantly, the impugned orders passed by the respondent department under Annexure A1 dated 5.1.2009 and the subsequent orders, if any, adverse to the interest of the petitioner passed by the department consequent upon the issuance of the office memorandum dated 22.7.1997 stand quashed. Consequently, the impugned orders passed by the Tribunal are set aside and the Writ Petition is allowed.

**(M. JEYAPPAUL)
JUDGE**

**(DARSHAN SINGH)
JUDGE**

September 14, 2015

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